

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 201800974	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/30/2018 3:38 PM, Tuesday, 01/30/2018 4:30 PM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 103	18 Mo. SOL 7/30/2019	EO SOL 7/30/2019	
Date/Time CV Reported Tue, 01/30/2018 8:41 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/05/2018 11:07 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Edward Scali	03350	931170	113 PCT
2. POM Daniel Connors	09778	952612	113 PCT
3. Officers			113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DI Jerry Osullivan	00000	902151	113 PCT
2. POF Alicia Commisso	08921	954660	113 PCT
3. POM Stephen Gassick	21031	964010	113 PCT
4. SDS Derrick Milligan	04735	918006	INT CIS
5. CPT Eric Robinson	00000	934118	113 PCT
6. LT Paul Muggeo	00000	944834	113 PCT
7. POM Joseph Paige	19528	955288	113 PCT
8. POM Timothy Harrington	16253	944636	ESS 09
9. DTS Anthony Rivelli	4676	927416	ESS 09
10. DTS Matthew Cahill	4139	929812	ESS 07
11. POM Daniel Garcia	20856	948030	ESS 07
12. SGT Matthew Zucker	05643	942840	ESS 09
13. DTS Keith Stylianos	5484	929222	ESS 10
14. POM Michael Chapman	29706	945581	ESS 07
15. LSA Mark Lanigan	00000	895109	E S U
16. POM Richard Ernyey	06720	953841	113 PCT
17. POM Joel Diaz	25278	946466	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
18. POM Mark Lewis	05062	954060	113 DET
19. POM John Ortega	10354	961042	113 PCT
20. POM Nurul Siddiqui	17508	946250	113 PCT
21. POM Matthew Tiernan	24019	946325	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Connors	Abuse: Police Officer Daniel Connors entered § 87(2)(b) in Queens.	
B. Officers	Abuse: Officers searched § 87(2)(b) in Queens.	
C. Officers	Abuse: Officers stopped § 87(2)(b)	
D. Officers	Abuse: Officers stopped § 87(2)(b)	
E. Officers	Abuse: Officers stopped § 87(2)(b)	
F.SGT Edward Scali	Abuse: Sergeant Edward Scali refused to show the search warrant to § 87(2)(b)	
G.POM Daniel Connors	Abuse: Police Officer Daniel Connors searched the rear bedroom of § 87(2)(b) in Queens.	

Case Summary

On January 30, 2018, Deputy Inspector Jerry O'Sullivan of the 113th Precinct filed this complaint with the Internal Affairs Bureau via telephone on behalf of § 87(2)(b) generating IAB log number 2018-4385. IAB referred this case to the CCRB, where it was received on February 5, 2018. § 87(2)(g) At the request of Queens County Assistant District Attorney Timothy Shortt, this case was on DA Hold from June 8, 2018 until September 24, 2019.

At approximately 3:38 p.m. on January 30, 2018, officers from the Emergency Services Unit, the 113th Precinct, and the Intelligence Bureau Criminal Intelligence Section forcibly entered the home of § 87(2)(b) her husband § 87(2)(b) and her son § 87(2)(b) at § 87(2)(b) in Queens pursuant to a search warrant for the rear bedroom of that house (**Allegation A – Abuse of Authority: Entry of Premises,** § 87(2)(g)). The scope of the search warrant was limited to the rear bedroom belonging to § 87(2)(b) and § 87(2)(b) but § 87(2)(b)'s bedroom was also allegedly searched (**Allegation B – Abuse of Authority: Search of Premises,** § 87(2)(g)). § 87(2)(b) was home at this time, but neither § 87(2)(b) nor § 87(2)(b) was present. The officers determined that the search warrant had been issued for the wrong house § 87(2)(e) because § 87(2)(b) informed them that the owner of a black Cadillac, belonging to the target of the search warrant, lived next door at § 87(2)(b).

Officers saw the subject of the search warrant, § 87(2)(b) exit § 87(2)(b) which is conjoined with § 87(2)(b) (Board Review 25), with § 87(2)(b) and § 87(2)(b) and they proceeded to stop them (**Allegations C – Abuse of Authority: Stop,** § 87(2)(g); **Allegation D – Abuse of Authority: Stop,** § 87(2)(g); **Allegation E – Abuse of Authority: Stop,** § 87(2)(g)). After speaking to § 87(2)(b) and § 87(2)(b) the officers placed § 87(2)(b) under arrest for promoting prostitution, and they arrested § 87(2)(b) on an active warrant. § 87(2)(b) asked officers to escort her inside so she could retrieve her property, and several officers accompanied her to the rear bedroom in § 87(2)(b) a single-room occupancy house. Once she retrieved her property, the officers remained by the bedroom while Police Officer Daniel Connors of the 113th Precinct went to court to get a new search warrant.

§ 87(2)(b) received a phone call from another neighbor, § 87(2)(b) about what was happening, and she immediately drove home from work. When she arrived, she spoke to Sergeant Edward Scali of the 113th Precinct and Sergeant Derrick Milligan of the Intelligence Bureau Criminal Intelligence Section inside her residence. § 87(2)(b) asked Sergeant Scali to show her the search warrant, and Sergeant Scali told her she would receive a copy of the warrant, but she was never provided or shown the search warrant (**Allegations F – Abuse of Authority: Refusal to Show Search Warrant,** § 87(2)(g)).

Police Officer Connors returned from court with a new search warrant for the rear bedroom in § 87(2)(b) and the officers searched it (**Allegation G – Abuse of Authority: Search of Premises,** § 87(2)(g)) and located a loaded firearm, live ammunition, an extended magazine, heroin, and marijuana, for which § 87(2)(b) was also charged (Board Review 34).

Surveillance footage capturing the exteriors of § 87(2)(b) was obtained from a house across the street at § 87(2)(b) (Relevant portions: IA #440-445, Board Review 28-33; Full video: IA #30, Board Review 01). None of the officers involved in this case were assigned body-worn cameras at the time of the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Daniel Connors entered § 87(2)(b) in Queens.

§ 87(2)(b) and § 87(2)(b) provided telephone statements on February 12, 2018 (Board Review 02, 03), and they were interviewed on February 20, 2018 (Board Review 04, 05). § 87(2)(b) provided a follow-up telephone statement on February 21, 2018 (Board Review 06), and § 87(2)(b) provided one on September 25, 2019 (Board Review 07). § 87(2)(b) did not wish to provide a statement. § 87(2)(b) provided a telephone statement on April 2, 2018 (Board Review 08) but failed to appear for her scheduled interview appointments. Numerous contact attempts were made to § 87(2)(b) but contact was unable to be established with her. § 87(2)(b)'s sister, § 87(2)(b) provided a telephone statement on March 20, 2018 (Board Review 09), and her other sister, § 87(2)(b) was unresponsive to numerous contact attempts. Sergeant Scali was interviewed on May 31, 2018 (Board Review 10). Police Officer Connors was interviewed on June 7, 2018 (Board Review 11). Sergeant Milligan was interviewed on October 16, 2019 (Board Review 12).

The investigation has determined that the officers' entry into § 87(2)(b) in Queens on January 30, 2018 was conducted in accordance with Queens County search warrant number § 87(2)(b), which was signed by the Hon. § 87(2)(b) earlier on § 87(2)(b) (Board Review 13). The search warrant accurately describes the location of § 87(2)(b) § 87(2)(b). The search warrant lists Police Officer Connors as the officer who applied for the warrant.

According to Sergeant Milligan, § 87(2)(e), § 87(2)(f) § 87(2)(b).” Sergeant Milligan performed surveillance on the building one to two days before January 30, 2018, and he saw a black Cadillac associated with § 87(2)(b) parked on § 87(2)(b) in front of the building. § 87(2)(e), § 87(2)(f) § 87(2)(b). Once inside § 87(2)(b) Sergeant Milligan realized the search warrant had been issued for the wrong house because there was “a lot of stuff” inside § 87(2)(b) § 87(2)(e), § 87(2)(f) § 87(2)(b) informed him that the owner of the black Cadillac lived next door at § 87(2)(b) § 87(2)(b). Sergeant Milligan contemporaneous memo book entries (Board Review 14) were consistent with his statement § 87(2)(e) § 87(2)(b).

§ 87(2)(g)

Allegation (B) Abuse of Authority: Officers searched § 87(2)(b) in Queens.

The scope of the search warrant for § 87(2)(b) (Board Review 13) was limited to “the bedroom at the end of the hall on the first floor,” which is § 87(2)(b) s and § 87(2)(b) master bedroom.

§ 87(2)(b) stated that after the officers entered and searched his bedroom, he believed that they also searched § 87(2)(b) s bedroom and the guest bedroom, but he noted that he could not see what happened outside his bedroom.

§ 87(2)(b) stated that when she returned home, she observed that § 87(2)(b) s bedroom was “literally trashed,” and items, such as his clothes, were “thrown all over the place.” § 87(2)(b) s bedframe was broken. § 87(2)(b) s bedroom was “probably was a little bit” messy before the officers arrived because he is “not a very tidy person.” § 87(2)(b) believed the officers were responsible for the mess in § 87(2)(b) s room “to some extent.” § 87(2)(b) did not see any officers inside § 87(2)(b) s bedroom. § 87(2)(b) provided a photograph of § 87(2)(b) s damaged bedroom door, but she did not provide any photographs of the condition of his bedroom or the guest bedroom (Board Review 15).

Sergeant Scali’s, Sergeant Milligan’s, and Police Officer Connor’s statements were generally consistent with one another. They each stated that upon entering § 87(2)(b) they realized they were not in the residence that the confidential informant described, and they denied that any room inside § 87(2)(b) was actually searched.

§ 87(2)(b) was unable to see what happened outside his bedroom, § 87(2)(b) was not present during the officers’ alleged search of the other bedrooms, and each officer interviewed denied that any room inside § 87(2)(b) was searched. § 87(2)(g)

Allegation (C) Abuse of Authority: Officers stopped § 87(2)(b)

Allegation (D) Abuse of Authority: Officers stopped § 87(2)(b)

Allegation (E) Abuse of Authority: Officers stopped § 87(2)(b)

In her telephone statement, § 87(2)(b) stated that she, § 87(2)(b) and § 87(2)(b) exited § 87(2)(b) after smoking marijuana, and they saw many police officers outside and inside § 87(2)(b). They began walking up the block, and officers grabbed each of them and separated them. The officers did not tell § 87(2)(b) why she was stopped, and she could not hear what they discussed with § 87(2)(b) and § 87(2)(b). Approximately one hour after she was stopped, § 87(2)(b) was placed in a police vehicle. § 87(2)(b) and § 87(2)(b) were arrested and taken to the 113th Precinct stationhouse, where the officers found her marijuana.

Neither § 87(2)(b) nor § 87(2)(b) observed the officers’ interactions with § 87(2)(b) or § 87(2)(b).

Sergeant Scali's, Sergeant Milligan's, and Police Officer Connors' statements were generally consistent. They stated that while they were inside § 87(2)(b) the officers outside, Police Officer Alicia Comisso and Police Officer Joseph Paige of the 113th Precinct, informed them that they had observed § 87(2)(b) and § 87(2)(b) exit § 87(2)(b). The officers recognized § 87(2)(b) and proceeded to stop each of them. Each officer stated that they were shown photographs of § 87(2)(b) at a tactical meeting at the stationhouse earlier in the day.

The search warrant for § 87(2)(b) (Board Review 13) states, "There is reasonable cause to believe that certain property, to wit: Firearms, ammunition, gun casings, spent rounds, including any storage containers or boxes that could hold firearms or ammunition... is located at the designated premises, to wit: the bedroom at the end of the hall on the first floor of § 87(2)(b). The tactical plan for § 87(2)(b) (Board Review 16) lists § 87(2)(b) as the subject of the search warrant.

According to People v. DeBour (40 N.Y.2d 210, 1976, Board Review 17), an officer may stop an individual if he or she has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime.

§ 87(2)(g)
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§ 87(2)(b) scheduled interview appointments for April 11, 2018 and April 20, 2018, and she missed both without providing advanced notice. § 87(2)(g)
§ 87(2)(g)

Searches of CTS, BADS, the NYS Department of Motor Vehicles database, Lexis Nexis, and CLEAR revealed two mailing addresses and three telephone numbers associated with § 87(2)(b). A letter sent to one of these addresses was received by § 87(2)(b)'s grandmother, § 87(2)(b) who called the undersigned and said she had not seen § 87(2)(b) since November 2017. Three unreturned letters were mailed to the second mailing address. Three of these telephone numbers were not in service, and three voicemails were left on calls to the fourth telephone number before it went out of service. To date, no contact with § 87(2)(b) has been established, and on November 9, 2019, a search of the NYC Department of Correction database revealed no record of § 87(2)(b) being incarcerated. § 87(2)(g)
§ 87(2)(g)

Allegation (F) Abuse of Authority: Sergeant Edward Scali refused to show the search warrant to § 87(2)(b)

In her telephone statement on February 12, 2018, § 87(2)(b) stated that she asked Sergeant Scali to show her the search warrant, and Sergeant Scali agreed to show it to her but did not do so. Sergeant Milligan then approached § 87(2)(b) who asked him and Sergeant Scali why they could not show her the warrant immediately, and Sergeant Milligan and Sergeant Scali told her that she would receive a copy, but she was never provided or shown a search warrant. In her in-person interview, § 87(2)(b) stated that she asked only Sergeant Scali to show her the search warrant, and that Sergeant Milligan was not present when she made this request.

In his telephone statement on February 12, 2018, § 87(2)(b) stated that § 87(2)(b) asked Sergeant Scali to show her the search warrant, and he said he would bring it to her but did not do so. In his in-person interview, § 87(2)(b) stated that § 87(2)(b) asked Sergeant Milligan to show her the search warrant, and that Sergeant Milligan said she would receive a copy of the warrant, but no officer provided or showed it to her.

§ 87(2)(b) stated that § 87(2)(b) was present with her when she asked to see the search warrant, but § 87(2)(b) stated that she was not present with § 87(2)(b) during any of her conversations with police officers.

Sergeant Scali denied speaking to § 87(2)(b) and he denied recognizing her when he was shown her photograph. He said the only one who asked to see the search warrant was § 87(2)(b) and that he showed it to him. Sergeant Scali denied refusing to show the search warrant to anyone at § 87(2)(b).

Sergeant Milligan's and Police Officer Connors' statements were generally consistent with Sergeant Scali's.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer Daniel Connors searched the rear bedroom of § 87(2)(b) in Queens.

The investigation has determined that the officers' subsequent search of the rear bedroom in § 87(2)(b) in Queens on January 30, 2018 was conducted in accordance with Queens County search warrant number § 87(2)(b) (Board Review 13). The search warrant lists Police Officer Connors as the officer who applied for the warrant. § 87(2)(g)

Allegations Not Pleaded

- Both § 87(2)(b) and Sergeant Scali described § 87(2)(b) as a single room occupancy-style building where § 87(2)(b) rents one room. Each officer interviewed acknowledged entering this room before obtaining the subsequent search warrant

for it. § 87(2)(b) [REDACTED]
[REDACTED] Sergeant Scali and Sergeant Milligan stated that § 87(2)(b) [REDACTED] asked them to escort her to the room to retrieve her belongings. § 87(2)(g) [REDACTED] Police Officer Commisso's and Police Officer Paige's memo books (Board Review 18, 19), in which they wrote, § 87(2)(b) [REDACTED] was fearful and just wanted her belongings from the rear room of § 87(2)(b) [REDACTED].” § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] have been parties (Board Review 20).
- § 87(2)(b) [REDACTED] has been a party to one other CCRB complaint and has been named as a victim in three other allegations (Board Review 20).
 - § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- Police Officer Daniel Connors has been a member-of-service for seven years and has been a subject in five other CCRB complaints and eight other allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED].
- Sergeant Edward Scali has been a member-of-service for 17 years and has been a subject in 12 other CCRB complaints and 25 other allegations, of which four were substantiated in one case.
 - 200601554 involved substantiated Premises Entered/Searched, Vehicle Search, Detainment, and Refusal to Provide Name/Shield Number allegations. The Board recommended charges, and Sergeant Scali pleaded guilty and lost eight vacation days.
 - § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On November 9, 2019, a Freedom of Information Law request for a notice of claim filed regarding this incident was sent to the Office of the New York City Comptroller (Board Review 21). Any responsive notice of claim will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

